

REMARKS

Claims 1-8 and 10-16 are pending. Of these, claims 1, 7, 11, 13 and 16 are written in independent format. By this Reply, claim 9 has been cancelled without intent of prejudice to or disclaimer of the subject matter contained therein.

§ 103 REJECTION – '555 PGPUB + '284 PATENT

Beginning on page 2 of the Office Action, claims 1-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Publication No. 2002/0054555 to Karakawa et al. ("the Karakawa '555 PGPub") in view of U.S. Patent No. 5,737,284 to Yamada ("the Yamada '284 patent"). This rejection is traversed.

Applicant will assume for the sake of discussion (in this traversal) the following: some portion of the Karakawa '555 PGPub would have been modified according to some portion of the Yamada '284 patent; and the Examiner's interpretation of the 'Karakawa '555 PGPub is reasonable.

The Examiner relies upon the Yamada '284 patent to make up for aspects not taught by the Karakawa '555 PGPub. In particular, the Examiner interprets the Yamada '284 patent as if it teaches an optical disc having a lead-in area that includes a straight pit-shaped line created by repeated marks and spaces. Applicant disagrees.

In particular, the Examiner has relied upon column 6, lines 15-18 of the Yamada '284 patent, which state:

FIGS. 4A and 4B are schematic diagrams for showing addresses for the sub-code Q data which are previously recorded in the disc 11 for the range from the lead-in area to the lead-out area. Specifically, FIG. 4A illustrates relative address recorded in the sub-code Q data corresponding to tune numbers (TNO), and FIG. 4B illustrates the absolute address recorded in the sub-code Q data for the range from the program area to the lead-out area.

In the above-quoted lines 15-18, the word "straight" is not literally recited. Nor is the word "straight" literally recited anywhere else in the Yamada '284 patent. For that matter, the word "line" is nowhere recited in the Yamada '284 patent. While the word "linear" is literally recited, the Yamada '284 patent does not recite "linear" in any context related to describing the shape of something as being more straight in character as opposed to curved.

A distinction of claim 1 over the Yamada '284 patent (and therefore over its combination with the Karakawa '555 PGPub) is the lead-in area including a specific area having a straight pit-shaped line created by repeated marks and spaces. Assuming for the sake of discussion that the Yamada '284 patent teaches a lead-in area that includes a pit-shaped line created by repeated marks and spaces, nothing about the Yamada '284 patent represents a teaching that the pits are straight.

Claims 2-6 depend at least indirectly from claim 1, respectively, and thus at least similarly distinguish over the applied combination of art.

By failing to disclose each element of the rejected claims, a combination of the Karakawa '555 PGPub and the Yamada '284 patent cannot be regarded as a proper basis for an obviousness rationale. Hence, the §103(a) rejection is improper and its withdrawal is requested.

§ 103 REJECTION – '555 PUB. + ARA + '698 PUB.

Beginning on page 4 of the Office Action, claims 7, 9, 11, 13 and 15-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the Karakawa '555 PGPub in view of Admitted Related Art ("ARA"),¹ and further in view of U.S. Patent Publication No. 2006/0227698 to Kobayashi ("the Kobayashi '698 PGPub").² This rejection is traversed.

The Examiner relies upon paragraph ("PGH") 74 of the Karakawa '555 PGPub because it includes the sentence: "Here, a maximum value (for example, 8T) and a minimum value (for example, 2T) are determined for the length of the mark recorded on the information storage medium." The noted sentence arises in the context of the Karakawa '555 PGPub teaching that selected instances of crosstalk can be mitigated by reducing the length and/or width of a neighboring mark that is responsible for inducing a given instance of crosstalk.

¹ Based upon his phraseology "Admitted Prior Art," Applicant infers that the Examiner is referring to art which is described in the section of the present specification entitled "Description of the Related Art." Applicant does not admit that this section describes, in effect, prior art. However, Applicant will assume for the sake of argument that the art described in this section (let's call it Related Art) is available for use in a rejection according to one of the definitions of art found in the sub-sections of 35 U.S.C. §102.

² The rejection states that the Kobayashi '698 PGPub is the third reference included in the applied combination of art. However, inspection of the details of the rejections of claims 7, 9, 11 and 15-16 appearing on pages 5-6 reveals that the Examiner has not relied upon the Kobayashi '698 PGPub. Accordingly, Applicant infers that the rejection of claims 7, 9, 11 and 15-16 is based upon a combination of only the Karakawa '555 PGPub and the ARA.

The Karakawa '555 PGPub presumes that marks on an optical disc can be read, but is unconcerned with how such marks are read. Consequently, the Karakawa '555 PGPub provides no details regarding what servo operations might be used to read data recorded in the various areas of the optical disc.

Because the Karakawa '555 PGPub is silent as to the details of servo operations, a distinction over the Karakawa '555 PGPub of independent claim 7 is reading, via a same servo operation as is useable to read data recorded in a user information area, data recorded in a lead-in area. As to the ARA, the Examiner has not relied upon the ARA as teaching this distinction of claim 7, nor would it be reasonable for the Examiner to assert the ARA as such.

Independent claim 11 recites a feature similar to the distinction of claim 7 noted above, and thus at least similarly distinguishes over the applied combination of art. Claim 9 depends from claim 7 and is patentable at least for the same reasoning.

As to independent claims 13 and 16, each recites a feature similar to the distinction of claim 1, respectively, explained above in the traversal of the rejection of claim 1. The ARA has not been relied upon as disclosing this distinction, nor would it be reasonable for the Examiner to assert the ARA as such. Claim 15 depends from claim 13 and thus at least similarly distinguishes over the applied combination.

By failing to disclose each element of the rejected claims, a combination of the Karakawa '555 PGPub and the Kobayashi '698 PGPub, with or without the inclusion of the ARA, cannot be regarded as a proper basis for an obviousness rationale. Hence, the §103(a) rejection is improper and its withdrawal is requested.

§ 103 REJECTION – OTHER DEPENDENT CLAIMS

Beginning on page 6 of the Office Action, claims 8, 12 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over the '555 pub. in view of ARA, and further in view of the '698 pub. This rejection is traversed.

Beginning on page 7 of the Office Action, claim 10 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the '555 pub. in view of U.S. Patent No. 6,215,746 to Ando et al. ("the Ando '746 patent"). This rejection is traversed.

Claims 8, 10, 12 and 14 depend at least indirectly from claims 7, 11 and 13, respectively, and thus at least similarly distinguish over the Karakawa '555 PGPub. None of the ARA, the Kobayashi '698 PGPub, or the Ando '746 patent has been relied upon as disclosing the

respective distinctions, nor would it be reasonable for the Examiner to assert them as such. Accordingly, the respective combinations of art fail to disclose each element of the respective rejected claims. Hence, the respective applied combinations of art cannot be regarded as proper bases for the respective obviousness rationales. Hence, the §103(a) rejections are improper and their withdrawal is requested, respectively.

CONCLUSION

The issues raised in the Office Action are considered to be resolved. Accordingly, Applicant again requests a Notice of Allowance.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 08-0750, including, in particular, extension of time fees.

Respectfully submitted,

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